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PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

REC'D 27 SEP 2005

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Applicant's or agent's file reference PU030114	FOR FURTHER ACTION See Form PCT/IPEA/416	
International application No. PCT/US2004/010643	International filing date (day/month/year) 07.04.2004	Priority date (day/month/year) 11.04.2003
International Patent Classification (IPC) or national classification and IPC H04N5/50		
Applicant THOMSON LICENSING S.A.		

1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.
2. This REPORT consists of a total of 8 sheets, including this cover sheet.
3. This report is also accompanied by ANNEXES, comprising:
 - a. ☐ sent to the applicant and to the International Bureau a total of sheets, as follows:
 - ☐ sheets of the description, claims and/or drawings which have been amended and are the basis of this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).
 - ☐ sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.
 - b. ☐ (sent to the International Bureau only) a total of (Indicate type and number of electronic carrier(s)) , containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).

4. This report contains indications relating to the following items:

- ☒ Box No. I Basis of the opinion
- ☐ Box No. II Priority
- ☐ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☐ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☐ Box No. VI Certain documents cited
- ☐ Box No. VII Certain defects in the international application
- ☐ Box No. VIII Certain observations on the international application

Date of submission of the demand 02.02.2005	Date of completion of this report 27.09.2005
Name and mailing address of the international preliminary examining authority:  European Patent Office - P.B. 5818 Patentlaan 2 NL-2280 HV Rijswijk - Pays Bas Tel. +31 70 340 - 2040 Tx: 31 651 epo nl Fax: +31 70 340 - 3016	Authorized Officer Berwitz, P Telephone No. +31 70 340-3875



**INTERNATIONAL PRELIMINARY REPORT
ON PATENTABILITY**

International application No.
PCT/US2004/010643

Box No. 1 Basis of the report

1. With regard to the **language**, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.
- ☐ This report is based on translations from the original language into the following language , which is the language of a translation furnished for the purposes of:
- ☐ international search (under Rules 12.3 and 23.1(b))
 - ☐ publication of the international application (under Rule 12.4)
 - ☐ international preliminary examination (under Rules 55.2 and/or 55.3)
2. With regard to the **elements*** of the international application, this report is based on *(replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report)*:

Description, Pages

1-13 as originally filed

Claims, Numbers

1-30 as originally filed

Drawings, Sheets

1/4-4/4 as originally filed

☐ a sequence listing and/or any related table(s) - see Supplemental Box Relating to Sequence Listing

3. ☐ The amendments have resulted in the cancellation of:

- ☐ the description, pages
- ☐ the claims, Nos.
- ☐ the drawings, sheets/figs
- ☐ the sequence listing (*specify*):
- ☐ any table(s) related to sequence listing (*specify*):

4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).

- ☐ the description, pages
- ☐ the claims, Nos:
- ☐ the drawings, sheets/figs
- ☐ the sequence listing (*specify*):
- ☐ any table(s) related to sequence listing (*specify*):

* If item 4 applies, some or all of these sheets may be marked "superseded."

**INTERNATIONAL PRELIMINARY REPORT
ON PATENTABILITY**

International application No.
PCT/US2004/010643

Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims	4-6, 8, 12-14, 16, 20-22, 24-30
	No: Claims	1-3, 7, 9-11, 15, 17-19, 23
Inventive step (IS)	Yes: Claims	
	No: Claims	1-30
Industrial applicability (IA)	Yes: Claims	1-30
	No: Claims	

2. Citations and explanations (Rule 70.7):

see separate sheet

Re Item V

**Reasoned statement with regard to novelty, inventive step or industrial applicability;
citations and explanations supporting such statement**

Reference is made to the following documents :

D1: US-A-5 483 685 (OKAMURA) 9 January 1996 (1996-01-09)

D2 : PATENT ABSTRACTS OF JAPAN vol. 2000, no. 16, 8 May 2001 (2001-05-08)
& JP 2001 016516 A (VICTOR CO OF JAPAN LTD), 19 January 2001 (2001-01-19)

1. The present application does not meet the criteria of Article 33(1) PCT, because the subject-matter of claims 1, 9 and 17 is not new in the sense of Article 33(2) PCT.

1.1 The document D1 discloses (the references in parentheses applying to this document) a method for selecting a broadcast program (abstract), comprising the following steps:

receiving a first user input (column 6, lines 15 to 20 and 39 to 43) representing a first digit associated with said broadcasting program;

storing first data representing said first digit within one of a first time interval for a first region (implicit from column 6, lines 20 to 38; region corresponding to a number of channels comprised between 10 and 99, column 6, lines 15 and 16) and a second predetermined time interval for a second region ("immediately", which is within "any" time interval, see column 6, lines 44 to 46; region corresponding to a number of channels below 10); and

processing said first data for selecting said broadcast program (in the light of claim 2, see column 6, lines 31 to 38 and 42 to 47).

Claim 1 therefore lacks novelty.

1.2 The same applies mutatis mutandis to independent claims 9 and 17.

2. **The present application does not meet the criteria of Article 33(1) PCT, because the subject-matter of independent claims 25 and 28 does not involve an inventive step in the sense of Article 33(3) PCT.**

2.1 The document D1 is regarded as being the closest prior art to the subject-matter of claim 25, and discloses (the references in parentheses applying to this document)

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:

receiving a first user input (column 5, lines 39 to 45 and 65 to 67) representing a first digit associated with said broadcasting program;

receiving a second user input (column 5, lines 54 and 55; column 6, lines 6 and 7) representing a second digit associated with said broadcast program;

processing data corresponding to said first and second user inputs to select said

broadcast program if said first digit is in a first set of digits ("2" to "9", see column 5, lines 45 to 64);

waiting for a third user input representing a third digit associated with said broadcast program without selecting said broadcast program if said first digit is in a second set of digits, wherein said first set of digits is different from said second set of digits ("1", column 5, line 65, to column 5, line 14).

- 2.2 The subject-matter of claim 25 therefore differs from this known method in that the value of the second digit is considered for the discrimination between the two last method steps.
- 2.3 The problem to be solved by the present invention may therefore be regarded as speeding up the program selection.
- 2.4 The solution proposed in claim 25 of the present application cannot be considered as involving an inventive step (Article 33(3) PCT) for the following reasons :

The basis for the solution is disclosed in D1 which considers the condition that the first digit should meet for tuning the receiver after only two digits in a receiver having up to 199 channels.

The sole example disclosed in D1 for receiving more than 199 channels is found in the passage ranging from column 4, line 65, to column 5, line 38. Unfortunately, only the tuning of channel 365 is described.

When confronted to the problem of speeding up the program selection, a skilled person would found obvious to generalize the teaching of the 100-199 channel example to any 100-899 channel configuration by comparing the channel first digit to the first digit of the number of available channels, and by further generalizing this concept to the comparison of the channel second digit to the second digit of the number of available channels, a further speeding up of the program selection would be achieved. Such a method could also be adapted to a 10-89 channel configuration.

By doing so, one would arrive to the solution of claim 25 without the exercise of any inventive skill.

2.5 The same reasoning applies, *mutatis mutandis*, to the subject-matter of the corresponding independent claim 28, which therefore is also considered not inventive.

3 **Dependent claims 2 to 8, 10 to 16, 18 to 24, 26, 27, 29 and 30 do not contain any features which, in combination with the features of any claim to which they refer, meet the requirements of the PCT in respect of novelty and/or inventive step, the reasons being as follows :**

3.1 For reasons similar as those put forward at paragraph 1.1 above, claims 2, 3, 10, 11, 18 and 19 are not new.

3.2 The additional subject-matter of claims 4, 12 and 20 is disclosed in D2 (Abstract, the channel list is only available for a limited lapse of time). It would be self obvious to a skilled person to include such a feature in a method or apparatus according to D1 when considering the expected advantages.

3.3 Claims 5, 6, 13, 14, 21 and 22 fail to define technical features and therefore lack an inventive step.

3.4 Claims 7, 15 and 23 also lack technical features. Moreover, their subject-matter is known from D1 (see column 4, lines 6 to 16). These claims therefore lack novelty.

3.5 The manual selection of claims 8, 16 and 24 lacks an inventive step over the automatic selection of D1 (see column 4, lines 6 to 16).

3.6 The additional subject-matter of claims 26 and 29 was discussed in paragraph 2.4 above. These claims therefore lack an inventive step.

3.7 The additional subject-matter of claims 27 and 30 is known from D1 (for example at column 5, lines 16 and 17). As a consequence, these claims also lack an inventive step.

4. Further remarks

- 4.1 Although claims 9 and 17 have been drafted as separate independent claims, they appear to relate effectively to the same subject-matter and to differ from each other only with regard to the definition of the subject-matter for which protection is sought and/or in respect of the terminology used for the features of that subject-matter. The aforementioned claims therefore lack conciseness and as such do not meet the requirements of Article 6 PCT.
- 4.2 Contrary to the requirements of Rule 5.1(a)(ii) PCT, the relevant background art disclosed in the document D1 is not mentioned in the description, nor is this document identified therein.